

CITY OF HORSESHOE BAY

ORDINANCE NO. ORD 08-2-19C

PLANNED DEVELOPMENT MARINA VILLAGE

AN ORDINANCE OF THE CITY OF HORSESHOE BAY ADOPTING PD ZONING REGULATIONS FOR PLANNED DEVELOPMENT MARINA VILLAGE, TO BE KNOWN AS PD MARINA VILLAGE ; ENACTING CERTAIN DEVELOPMENT STANDARDS AND LAND USE REGULATIONS; PROVIDING CERTAIN LAND USE RULES; ADOPTING CERTAIN LAND DEVELOPMENT STANDARDS; SETTING OUT ADMINISTRATIVE AND LEGISLATIVE PROCEDURES; IMPOSING CIVIL AND CRIMINAL PENALTIES, INCLUDING FINES NOT TO EXCEED \$2,000 PER OFFENSE; PROVIDING APPROVAL AUTHORITY FOR THE CITY COUNCIL; PROVIDING FOR ENFORCEMENT AND PENALTIES, AND PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Horseshoe Bay ("City Council") seeks to continue to provide for the health, safety, and welfare of those living in, working in, and visiting the City; and

WHEREAS, the City has adopted Ordinance No. ORD 07-09-18E, the City's Zoning Ordinance, as amended, for the purpose of establishing reasonable land use regulations within the City, including the use of Planned Development Zones ("PD Zones"), particularly to meet unique development Authorizations of certain projects; and

WHEREAS, Part IV of the City's Zoning Ordinance specifies the procedure and requirements for the creation of PD Zones, and which permit development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan and in which the goals and objectives of the Comprehensive Plan are to be implemented; and

WHEREAS, Lakes and Hills Development, the owner of Marina Village proposes development of Marina Village in a manner for which a Concept Plan for the development has been submitted to the City; and

WHEREAS, the property proposed for development and inclusion in such PD Zone is a 4.42 acre tract which is located in Llano County Texas ("the Property") heretofore zoned under Ordinance No. 07-08-28E ("Marina Village Zoning Ordinance"); and

WHEREAS, such tract has been treated as an integral unit within the City, which requires uses, regulations and other requirements that vary from the provisions of other zones, such that it is appropriate that they be designated together as a PD Zone; and

WHEREAS, Ordinance No. 07-08-28E required a Development Agreement that describes the responsibilities and activities of both the Owner of Marina Village and the City of Horseshoe Bay regarding the nature, type, and location of the structures and infrastructure facilities as shown on the Site Plan for Marina Village in compliance with the zoning regulations contained in this Ordinance and other City policies and regulations; and

WHEREAS, the City Council and the Owner of Marina Village are of the opinion that the provisions contained in this PD Ordinance adequately serve the purposes of such a Development Agreement so that the requirement for the same may be waived; and

WHEREAS, Developer has fulfilled all other conditions of zoning described under such Marina Village Zoning Ordinance including submission and preparation of a Master Development Plan, traffic study, parking study, and Site Plan;

WHEREAS, the City has examined the Concept Plan and all accompanying documents and is of the opinion that the proposed PD Zone is in compliance with Part IV of the City's Zoning Ordinance and that a PD Zone should be created in Zone 4 and be identified hereinafter as "PD Marina Village " of the City of Horseshoe Bay; and

WHEREAS, the City Council has provided public notice and has conducted a public hearing on the zoning of the PD Marina Village , as required by law; and

WHEREAS, the City Council, in the exercise of its legislative discretion has concluded that the Zoning Ordinance of the City of Horseshoe Bay should be amended as herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. ORDINANCE AMENDMENT AND REPEAL

(a) Section 3.6.6 of Zoning Ordinance No. ORD 07-09-18E, of the City of Horseshoe Bay, Texas as heretofore amended, being that portion of the Zoning Ordinance applicable to Marina Village, is hereby amended by repealing the current language found in such Section and replacing it with the following:

Section 3.6.6 Zoning of Marina Village

Marina Village zoning regulations were originally approved and set out in Ordinance No. 07-08-28E. This Ordinance is hereby repealed in its entirety and replaced by this PD

Zone Ordinance Planned Development Marina Village. This ordinance amends the City's Zoning Ordinance but shall stand alone and shall be complimentary to rather than supplanting or replacing portions of such Zoning Ordinance.

(b) The requirement in Ordinance No. 07-08-28E for a Development Agreement in connection with the development of Marina Village is hereby waived.

III. APPLICABLE ZONING AND OTHER REGULATIONS

(a) The Property shall be regulated for purposes of zoning and subdivision by the City's Zoning and Subdivision Ordinances, and shall be subject to all other City Ordinances in effect except as herein specifically provided. Where a general zoning item is not specifically addressed in this PD Ordinance but is addressed by the City's Zoning Ordinance or other ordinance in effect, the zoning or other ordinance shall control. In the event of any conflict between this PD Ordinance and the City's Zoning Ordinance, this PD Ordinance shall control.

(b) The Property is zoned MURC-1 (Mixed Use Residential Multi Family and Commercial) in Zone 4 and all such authorizations and limitations for such zoning classification will be adopted by reference and incorporated for the Property for all purposes, except to the extent modified herein.

The following provisions shall be applicable to all land within Marina Village classified as Mixed Use Residential Multi Family and Commercial ("MURC-1"):

(1) Uses Permitted:

(a) Townhouses or Condominium Residential Dwelling Units;

(b) Retail or wholesale stores or businesses not involving any kind of manufacture, processing, or treatment of products other than that which is clearly incidental to the retail or wholesale business conducted on the premises not to exceed five thousand (5,000) square feet in size for any single building, and which is compatible with the uses permitted below;

(c) Automobile parking areas;

(d) Restaurants, tea rooms and cafes, including those offering on and off premises sale of alcoholic beverages, where the law provides;

(e) Office, professional and general business;

(f) Health club, health spa, exercise/fitness center;

(g) Accessory structures necessary to such use erected upon the same lot.

(2) Maximum Building Height: The maximum building height for the four (4) buildings adjacent to Lake LBJ shall be five (5) stories, or seventy-five (75) feet above

the natural contour of the applicable lot, and the maximum building height for the four (4) buildings adjacent to Horseshoe Bay Blvd. shall be three (3) stories, or forty (40) feet above the highest natural contour of the applicable lot.

(3) Minimum Yard Requirements:

(a) Front setback lines shall be twenty-five (25) feet from Horseshoe Bay Blvd.

(b) Rear setback (waterfront) for the building unit foundations shall be up to the edge of the 825' contour line along Lake LBJ. All buildings shall be at a minimum elevation of 827'.

(c) Side setback lines shall be ten (10) feet. The minimum distance between buildings shall be twenty-five (25) feet provided that where fire lanes are required the minimum distance between buildings shall be thirty (30) feet.

(4) Maximum Area of Building Footprint: Notwithstanding uses permitted herein, no more than sixty percent (60%) of the total lot area shall be used for the dwelling units and other structures.

(5) Minimum Dwelling Unit Size: The minimum living area of each dwelling unit shall consist of at least fifteen hundred (1500) square feet of living area, excluding covered porches or contiguous patios.

(6) Minimum Commercial Unit Size: The minimum area of each commercial unit shall consist of at least fifteen hundred (1500) square feet of a/c and heating area.

(7) Parking Minimums: A minimum of two (2) parking spaces per 2 and 3 bed residential dwelling unit and four (4) parking spaces per 6 bedroom residential dwelling unit are required. A minimum of one (1) parking space per 250 square feet of commercial space is required. A minimum of one (1) parking space per ten (10) commercial marina boat slips is required. No parking spaces will be located in any designated Fire Lane.

(8) Roofing Material: Deck roofs which are nearly flat and without parapet walls shall be permitted. Pitched roofs shall be constructed of concrete or clay tile or standing seam sheet metal with no visible screws or fasteners, and shall be properly installed on a suitable slope, and asphalt, asbestos, wood and/or fiberglass shingles shall not be permitted. Other than deck roofs, no visible flat roofs and/or visible tar and gravel roofs shall be permitted on any building or structure constructed on any Lot.

(9) Masonry: All buildings shall be constructed of at least seventy-five percent (75%) masonry. The exterior portion of all walls that are not masonry shall be painted or stained immediately upon completion or shall have color mixed in the final structural application, excepting acceptable woods that are commonly used without such finishes,

so that all such materials shall have a finished appearance. No plywood, pressboard, particle board, or similar type of material shall be used on any exterior wall or any structure.

(c) Building Height and Height Plan. The maximum building height for the four buildings adjacent to Lake LBJ shall be a maximum of five stories, as depicted in the PD Concept Plan for a total building height of no more than 75 feet. The City and the Developer agree that the Building Height Plans are as shown on Exhibits "C1 and C2" attached hereto.

(d) Site Plan. The City and the Developer agree that the Site Plan as attached hereto as Exhibit "D" for Marina Village indicates the nature, type, and location of the structures and infrastructure facilities in compliance with the zoning regulations contained in the PD Ordinance and other City policies and regulations.

(e) Infrastructure Site Plan. The City and the Developer agree that an Infrastructure Site Plan for Marina Village will be required prior to issuance of a building permit, and will include water and wastewater utility information, streets, garages, drainage and other essential utility information.

(f) Fire Safety Plan. The City and the Developer agree that the Fires Safety Plan as attached hereto as Exhibit "E" for Marina Village is based on studies depicting the existence of adequate fire protection services, equipment, and resources in or within an acceptable distance from the City capable of providing fire suppression to buildings constructed to the height depicted in such Site Plan of greater than forty (40) feet above the highest natural contour of the applicable lot.

(g) Activities During Construction. Developer shall ensure that the following items shall be addressed and/or enforced during construction on the Project:

(1) Developer shall at all times provide parking for vehicles involved in the Project on the Property. Construction vehicles shall not be allowed to park on the streets. The City's Parking Ordinance (Ordinance No. 07-05-15A) must be followed during construction.

(2) Developer shall ensure that construction activities do not interfere with any existing business operations on adjoining tracts.

(3) Construction traffic shall be minimized to ensure normal traffic flow is maintained. Developer shall coordinate with the City should it become necessary to block any public roadways during construction to ensure that all traffic congestion problems are minimized.

(4) Developer shall ensure that all environmental protection measures are undertaken and all required controls are in place to minimize run-off and other environmental impacts.

(5) Developer shall ensure that all construction debris is properly contained and disposed of and that dust from the construction activities is minimized.

(6) To the extent that Developer causes damage to streets owned by the Horseshoe Bay Property Owners' Association such damage will be repaired to the satisfaction of the POA.

IV. ZONING ORDINANCE DEFINITIONS

Developer means Lakes and Hills Development, and shall include any person, partnership, firm, association, corporation (or combination thereof), and/or any officer, agent, employee, servant and trustee thereof who performs or participates in the performance of any act toward the subdivision of land within the intent, scope and purview of this PD Ordinance. The Developer shall also be defined as the builder if he or she is responsible for the construction of buildings and/or other structures or permanent improvements.

PD Concept Plan establishes the general guidelines for the PD Zone by identifying or depicting the proposed land uses and intensities, thoroughfare locations, and open space boundaries and illustrates the integration of these elements into a Concept Plan for the entire PD Zone, a copy of which is attached hereto as Exhibit "B" and incorporated herein for all purposes.

PD Zone means a Planned Development Zone under the City's Zoning Ordinance.

Property means the tract of land which is located within the corporate boundaries of the City and more fully described in Exhibit "A" attached hereto and incorporated herein for all purposes.

V. PENALTIES, COMPLIANCE & ENFORCEMENT

To the extent not otherwise modified by the provisions contained in this PD Ordinance, the provisions contained in Section 5, Penalties and Enforcement of the City's Zoning Ordinance pertain to Marina Village PD Zone. The property described in Part III above and depicted in Exhibit "A" shall be used only in the manner and for the purposes provided for in Zoning Ordinance No. 07-09-18E, of the City of Horseshoe Bay as heretofore amended and as amended by this PD Ordinance.

VI. ZONING MAP AMENDED

The official Zoning District Map of the City of Horseshoe Bay hereto adopted be and is hereby amended to reflect the zoning change made herein.

VII. SEVERABILITY

If any section, subsection, sentence, phrase, word, paragraph or provision of this PD Ordinance be found to be illegal, invalid or unconstitutional, for any reason whatsoever, the adjudication shall not affect any other section, subsection, sentence, phrase, word, paragraph or provision of this PD Ordinance or the application of any other section, subsection, sentence, phrase, word, paragraph or provision of any other ordinance of the City. The City Council declares that it would have adopted the valid portions and applications of this PD Ordinance and would have rezoned the property without the invalid part, and as to this end the provisions of this PD Ordinance are declared to be severable.

VIII. EFFECTIVE DATE

This PD Ordinance shall be in full force and effective from and after its date of passage, in accordance with law.

ADOPTED AND APPROVED by the City Council of the City of Horseshoe Bay, Texas on this 19th day of February, 2008.

CITY OF HORSESHOE BAY, TEXAS

/S/
Robert W. Lambert, Mayor

ATTEST:

/S/
Teresa L. Moore, City Secretary

EXHIBIT A

PROPERTY DESCRIPTION

Field notes to accompany a Category 1A, Condition II Land Title Survey Plat of 4.42 acre portion of Tract AAA-2A, Horseshoe Bay Plat No. 64.3 recorded in Volume 15, Page 56 of the Llano County Plat Records and consisting of 118 square foot portion of 67,658 square feet conveyed to Lake LBJ Investment, Corporation recorded in Volume 222, Page 205 of the Llano County Deed Records, a 778 square foot portion of 0.55 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 206, Page 428 of the Llano County Deed Records, a 0.89 acre portion of 4.448 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 197, Page 79 of the Llano County Deed Records, a 725 square foot portion of 0.036 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 674, Page 54 of the Llano County Deed Records, a 17,888 square foot portion of 0.545 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 795, Page 47 of the Llano County Deed Records, Lot 15048-A 0.62 acre as shown on Horseshoe Bay Plat No. 15.20 recorded in Volume 10, Page 67 of the Llano County Plat Records and conveyed to Lake LBJ Investment, Corporation recorded in Volume 711, Page 286 of the Llano County Deed Records, Lot 15049-A 0.43 acre as shown on Horseshoe Bay Plat No. 15.23 recorded in Volume 10, Page 67 of the Llano County Plat Records conveyed to Lake LBJ Investment, Corporation recorded in Volume 753, Page 28 of the Llano County Deed Records, a 1,595 square foot portion of Lot 15050 as shown on Horseshoe Bay Plat No. 15.1 recorded in Volume 2, Page 42 of the Llano County Plat Records conveyed to Lake LBJ Investment, Corporation recorded in Volume 860, Page 216 of the Llano County Deed Records, a 3,556 square foot and 509 square foot portions of 515 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 222, Page 247 of the Llano County Deed Records, all of Lot 15068-A 0.16 acre recorded on Horseshoe Bay Plat No. 15.24 recorded in Volume 10, Page 61 of the Llano County Plat Records conveyed to Lake LBJ Investment, Corporation recorded in Volume 753, Page 31 of the Llano County Deed Records, a 0.75 acre portion of 1.677 acres conveyed to Hurd Investment Corporation recorded in Volume 197, Page 523 of the Llano County Deed Records, all of Tract One 0.135 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 0753, Page 012 of the Llano County Deed Records, all of Tract Two, 0.162 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 753, Page 12 of the Llano County Deed Records, Tract Three, 0.148 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 0753, Page 012 of the Llano County Deed Records, all of a 7,464.136 square foot tract conveyed to Lake LBJ Investment, Corporation recorded in Volume 225, Page 592 of the Llano County Deed Records, Tract One, 0.351 acres conveyed to Lake LBJ Investment, Corporation recorded in Volume 225, Page 588 of the Llano County Deed Records and Tract Two, 952.736 square feet conveyed to Lake LBJ Investment, Corporation recorded in Volume 225, Page 588 of the Llano County Deed Records. The basis of bearing for this survey is the Texas Lambert Grid, Central Zone, NAD 83. Distances shown are grid distances. Surface distances can be obtained using a surface adjustment factor of 1.00012. () denotes record information.

Beginning at a 1/2" steel stake found with plastic cap stamped R.P.L.S. 1877 being the most Southerly corner of this Tract I in the North line of Tract AAA-6A, 0.87 acres as shown on

Horseshoe Bay Plat No. 64.3 recorded in Volume 15, Page 56 of the Llano County Plat Records conveyed to Centex Homes recorded in Volume 1328, Page 372 of the Official Public Records of Llano County, Texas.

Thence along the South line of this Tract I and the North line of said Tract AAA-6A, N50°43'40"W at 125.22' passing a 1/2" steel stake found, in all 126.96' to a 1/2 steel stake set with plastic cap stamped R.P.L.S. 1877 being the Southwest corner hereof;

Thence along the West line of this Tract I and the East line of a remnant of Tract AAA-2A shown on Horseshoe Bay Plat No. 64.3 recorded in Volume 15, Page 56 of the Llano County Plat Records conveyed to Lake LBJ Investment, Corporation recorded in Volume 222, Page 247 of the Llano County Deed Records the next 5 calls are as follows:

Thence N40°55'05"E, 131.46' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence N13°42'45"E, 80.51' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence N87°54'45"E, 22.73' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence N04°05'46"E, 110.81' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence N08°29'46"W, 518.48' to a 1/2 steel stake set with plastic cap stamped R.P.L.S. 1877 being the Northwest corner hereof in the South line of Tract AAA-1A, 4.15 acres shown on Horseshoe Bay Plat No. 64.3 recorded in Volume 15, Page 56 of the Llano County Plat Records and conveyed to Centex Homes recorded in Volume 1328, Page 372 of the Official Public Records of Llano County, Texas;

Thence along the North line of this Tract I and the South line of said Tract AAA-1A the next 5 calls are as follows:

Thence N87°13'00"E, 76.50' to a mag nail found with washer stamped 1877 for an angle point hereof;

Thence N07°16'38"W, 17.07' to a mag nail found with washer stamped 1877 for an angle point hereof;

Thence N85°30'19"E, 1.96' to a mag nail found with washer stamped 1877 for an angle point hereof;

Thence N78°29'32"E, 40.81' to a concrete nail found for an angle point hereof;

Thence along a curve to the right C1, with a radius of 70.13', an arc length of 34.47', a delta angle of 28°09'34", and a bearing and distance of S83°46'55"E, 34.12' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence along the North line of this Tract I and the West line of said remnant of Tract AAA-2A the next 4 calls are as follows:

Thence, L1, S18°01'09"E, 1.89' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence S66°13'52"E, 43.55' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence along a curve to the right C2, with a radius of 40.00', an arc length of 15.51', a delta angle of 22°13'10", and a bearing and distance of S55°07'17"E, 15.42' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence S44°00'42"E, 59.05' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence along the East line of this Tract I and the West line of said remnant of Tract AAA-2A the next 5 calls are as follows:

Thence along a curve to the right C3, with a radius of 42.00', an arc length of 30.63', a delta angle of 41°47'25", and a bearing and distance of S23°06'59"E, 29.96' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence S02°13'17"E, 508.99' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence along a curve to the right C4, with a radius of 8.50', an arc length of 13.59', a delta angle of 91°36'02", and a bearing and distance of S43°34'45"W, 12.19' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence, L2, S89°22'46"W, 4.22' to a mag nail set with washer stamped 1877 for an angle point hereof;

Thence S02°03'51"E, 185.53' to a 1/2" steel stake found with plastic cap stamped R.P.L.S. 1877 for an angle point hereof;

Thence along the South line of this Tract I and the North right of way line of Cove West S87°56'36"W, 83.80' to a 1/2" steel stake found with plastic cap stamped R.P.L.S. 1877 for an angle point hereof;

Thence along a curve to the left C5, with a radius of 50.00', an arc length of 93.32', a delta angle of $106^{\circ}56'17''$, and a bearing and distance of $S34^{\circ}29'57''W$, 80.35' to a computed point being the Southeast corner hereof;

Thence along the South line of this Tract I and the North line of said Tract AAA-6A $S69^{\circ}57'41''W$, 107.98' to the Place of Beginning.

EXHIBIT B
PD CONCEPT PLAN

EXHIBIT C1

BUILDING HEIGHT AND HEIGHT PLAN 2 STORY BUILDINGS

EXHIBIT C2

BUILDING HEIGHT AND HEIGHT PLAN 5 STORY BUILDINGS

EXHIBIT C3
SUNLIGHT STUDY

EXHIBIT D
SITE PLAN

EXHIBIT E

FIRE SAFETY PLAN